

AMENDED IN SENATE APRIL 28, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 501

Introduced by Senator Wieckowski

February 26, 2015

An act to amend ~~Sections~~ *Section* 706.050 and 706.121 of, and to add Sections 706.053 and 706.130 to, of the Code of Civil Procedure, relating to wage garnishment.

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as amended, Wieckowski. Wage garnishment ~~restrictions:~~ *restrictions*; ~~student loans:~~ *restrictions*.

The Wage Garnishment Law prescribes the procedure for withholding an employee's earnings for purposes of paying a debt. The law requires that a levy of execution upon the earnings of an employee be made by service of an earnings withholding order upon the employer. An earnings withholding order is issued by a levying officer upon receiving an application submitted by a judgment creditor, as specified. Existing law prohibits the amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order from exceeding the lesser of 25% of the individual's weekly disposable earnings or the amount by which the individual's disposable earnings for the week exceed 40 times the state minimum hourly ~~wage, or applicable local minimum hourly rate, if higher,~~ *wage* in effect at the time the earnings are payable, as specified, unless an exception applies. An employer is required, except as otherwise provided by statute, to withhold the amounts required by an earnings withholding order from all earnings of the employee payable for any pay period of the employee which ends during the withholding period.

~~This bill would provide that an earnings withholding order shall not be used for purposes of enforcing a judgment for the collection of debt that is from a student loan that is not made, insured, or guaranteed by the United States government pursuant to the Federal Family Education Loan Program or the William D. Ford Federal Direct Loan Program. The bill would also reduce the prohibited amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order from exceeding the lesser of 10% of the individual's weekly disposable earnings or $\frac{1}{3}$ of the amount by which the individual's disposable earnings for the week exceed 40 times the state minimum hourly wage, or applicable local minimum hourly wage, if higher, in effect at the time the earnings are payable. The bill would further require a court to terminate or modify an earnings withholding order issued on or after July 1, 2016, if the court determines, upon a request by the judgment debtor pursuant to specified requirements and procedures, that the withholding order enforces a judgment in violation of these provisions. The bill would provide that a judgment creditor is liable to the judgment debtor for all amounts collected by the judgment creditor in violation of these provisions. The bill also would make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 706.050 of the Code of Civil Procedure
2 is amended to read:
3 706.050. (a) Except as otherwise provided in this chapter, the
4 maximum amount of disposable earnings of an individual judgment
5 debtor for any workweek that is subject to levy under an earnings
6 withholding order shall not exceed the lesser of the following:
7 (1) Ten percent of the individual's disposable earnings for that
8 week.
9 (2) One-third of the amount by which the individual's disposable
10 earnings for that week exceed 40 times the state minimum hourly
11 wage in effect at the time the earnings are payable. If a judgment
12 debtor works in a location where the local minimum hourly wage
13 is greater than the state minimum hourly wage, the local minimum
14 hourly wage in effect at the time the earnings are payable shall be
15 used for the calculation made pursuant to this paragraph.

1 (b) For any pay period other than weekly, the following
2 multipliers shall be used to determine the maximum amount of
3 disposable earnings subject to levy under an earnings withholding
4 order that is proportional in effect to the calculation described in
5 paragraph (2) of subdivision (a), except as specified in paragraph
6 (1):

7 (1) For a daily pay period, the amounts shall be identical to the
8 amounts described in subdivision (a).

9 (2) For a biweekly pay period, multiply the applicable hourly
10 minimum wage by 80 work hours.

11 (3) For a semimonthly pay period, multiply the applicable hourly
12 minimum wage by $86\frac{2}{3}$ work hours.

13 (4) For a monthly pay period, multiply the applicable hourly
14 minimum wage by $173\frac{1}{3}$ work hours.

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17 **All matter omitted in this version of the bill**
18 **appears in the bill as amended in the**
19 **Senate, April 6, 2015. (JR11)**
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